THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.4963 OF 2006

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Dated: 14-03-2006

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Between

M/s. Sri Balaji Timber Depot and Saw Mill,

Dr.No.13-6-432/36, Ring Road, Mehdipatnam,

Hyderabad rep. by its Proprietor,

S. Satyanarayana, S/o. Raja Veeru,

R/o. Dr.No.12-2-709/B, Monica Apartments,

Padmanabha Nagar, Mehdipatnam, Hyderabad.

…PETITIONER

AND

The State of Andhra Pradesh, rep. by its

Chief Secretary to Government,

A.P. Secretariat, Hyderabad and others.

…RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to direct the respondents to permit him to carry on business in premises bearing House

No.13-6-432/36, Srinivasanagar, Ring Road, Mehdipatnam, Hyderabad as per the licence granted by the fourth respondent herein dated 17.01.2003 renewed up to 31.12.2006 by declaring the order passed by the fourth respondent in Rc.No.77/2003/S14/2005 dated 27.12.2005 as illegal and arbitrary.

Learned counsel for the petitioner submits that licence No.549/98 under Rule 4 of the Andhra Pradesh Saw Mill (Regulations) Rules, 1969 was granted in favour of the petitioner on 31.12.1998 for a period of three years and valid up to 31.12.2001, for establishing new saw mill in the premises at Balajinagar, Ring Road, Hyderabad. The petitioner submitted an application before the licensing authority on 20.11.2002 for shifting the sawmill to the premises bearing Dr.No.13-6-432/36, Srinivasnagar, Ring Road, Mehdipatnam, along with an application for renewal application for renewal of licence. The licensing authority instead of renewing the licence of sawmill in the new premises granted fresh licence in the new premises on 17.01.2003 valid up to 31.12.2003. The petitioner made an application on 10.11.2003 for renewal of the licence and the licensing authority by order dated 21.07.2004 renewed the validity of the licence up to 31.12.2006.

While so a show cause notice dated 05.08.2005 was issued to the petitioner by the fourth respondent for cancellation of the licence issued to the petitioner in respect of Sri Balaji Saw Mill in premises No.13-6-432/36, Srinivasnagar, Ring Road, Hyderabad as the same is contrary to the judgment of the Supreme court in WP.No.202 of 1995 and as the same has been granted without prior permission of the Central Empowered Committee and the petitioner was directed to show cause as to why the said licence shall not be cancelled within ten days. The petitioner submitted his explanation on 17.08.2005 stating that the judgment of the Supreme Court is not applicable to the facts of his case and as the authorities were interfering with his business, petitioner filed WP.No.26078 of 2005 stating that without considering his representation/explanation, the fourth respondent is threatening to cancel his licence. The said writ petition was disposed of directing the fourth respondent herein to consider and dispose the representation of the petitioner dated 17.08.2005 and till then it was directed not to prevent the petitioner from operating the sawmill.

It is stated that though petitioner filed a detailed representation on 17.08.2005 the fourth respondent has not considered the same and without dealing with any of the contentions raised in the representation held that the reply submitted by the petitioner is examined and found the licence of the petitioner contrary to the judgment of the Supreme Court dated 12.11.2002 in WP.No.202 of 2005. Hence, the licence granted in favour of the petitioner vide proceedings in Rc.No.77/S14/2004 dated 17.01.2003 and 21.07.2004 was cancelled by proceedings in Rc.No.77/2003/S14/2005 dated 27.12.2005. Aggrieved by the said order

dated 27.12.12005 of the fourth respondent this writ petition is filed.

It is stated that as against the said order petitioner filed a statutory appeal before the Conservator of Forests – third respondent on 07.02.2006 and also filed a representation dated 22.02.2006 before the Central Empowered Committee – fifth respondent to direct the Divisional Forest Officer to restore the old licence granted in 1998 without reference to the judgment of the Supreme Court as the licence granted in his favour does not come within the purview of the judgment of the Supreme Court. It is further stated that even the grant of new licence at new premises is also not contrary to the judgment of the Supreme Court as the same was granted even before the said order was communicated to the licensing authority.

Learned Government Pleader appearing for the respondents brought to the notice of this Court the judgment passed by this Court in **MOHD. KHAVI v. STATE OF ANDHRA PRADESH** in WP.No.27009 of 2005 dated 20.12.205 wherein a similar order canceling the licence was assailed and this Court while considering the judgment of the Supreme Court in **T.N. GODAVARMAN THIRUMALPAD v. UNION OF INDIA** in WP.No.202/95 observed that no Mandamus can be issued for violating the directions of the Supreme Court and the petitioner cannot be permitted to carry on the business without the previous concurrence of the Central Empowered Committee for grant of licence.

Having regard to the facts and circumstances of the case and following the judgment of this Court in WP.No.27009 of 2005, the fifth respondent is directed to consider and dispose the representation of the petitioner dated 22.02.2006 for according appropriate permission for grant of saw mill licence in his favour keeping in view the judgment of the Supreme Court and pass appropriate orders within three weeks from the date of receipt of a copy of this order. As the appeal is also pending before the third respondent, he is also directed to consider and dispose the appeal in accordance with law within three weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 14, 2006

Note: Furnish C.C. of the order in three days

(**B/o**)

DSK